

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Revision of the Commission's Rules To	)	
Ensure Compatibility with Enhanced 911	)	CC Docket No. 94-102
Emergency Calling Systems	)	
	)	
Phase II Compliance Deadlines for Non-	)	
Nationwide CMRS Carriers	)	
	)	

**COMMENTS OF NENA,  
APCO and NASNA**

The National Emergency Number Association ("NENA"), the Association of Public-Safety Communications Officials-International, Inc. ("APCO") and the National Association of State Nine One One Administrators ("NASNA") (collectively, "Public Safety Organizations") hereby comment on the smaller-carrier waiver requests that remain pending following the Commission's Order of July 26, 2002.<sup>1</sup>

In that Order, the FCC generally extended wireless E9-1-1 Phase II compliance deadlines by approximately seven months for "Tier II" wireless carriers<sup>2</sup> and by 13 months for Tier III carriers not meeting the subscriber volumes for Tier II. (Order, ¶¶26-27 and 32-33, respectively) The staying of the requirements, however, only applies to those 110 wireless carriers whose requests for more time were on file shortly before the issuance of the Order and are listed in the Order's Appendix A. Since the release of the Order, additional waiver requests have been

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<sup>1</sup> Order to Stay, FCC 02-210.

<sup>2</sup> Defined as having more than 500,000 subscribers at the close of 2001. (Order, ¶22)

received from eight wireless carriers that appear to fit the Tier III classification.<sup>3</sup> Predictably, more will be filed as word of the Order spreads.

Our point here is not to comment on the merits of these woefully tardy requests.<sup>4</sup> The FCC has demonstrated in the Order that it can deal rationally and compassionately with present and future waiver applications. We note, however, as a matter of procedure, that the last time something like this happened to wireless 9-1-1 implementation deadlines, the two most tardy waiver filers, Cingular and AT&T Wireless, were referred to the Enforcement Bureau to explain their delays. We see no reason to avoid similar referrals of smaller carriers, particularly those whose late-filed requests are devoid of specific reasons for not acting earlier.

Absent an effort to build specific records on these pending waiver requests, it will look as if either the carriers or the FCC don't care about non-compliance by smaller carriers. The Public Safety Organizations are sure that is not the case. All carriers except those six with national service areas have been given special treatment in the length of time which has elapsed prior to FCC action on their requests for waiver from the general Phase I and Phase II implementation obligations. Now it is time to deal firmly and even-handedly with the Phase II non-compliance of smaller carriers who waited until after the July 26th Order to seek relief.

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<sup>3</sup> Elkhart Telephone Company; Comscape; Texas RSA 15B2 Limited Partnership; Texas RSA 8 East Limited Partnership and Taylor Telecommunications; Southern Illinois RSA Partnership; Amarillo License, L.P. and High Plains Wireless, L.P.; Duluth PCS; and North Dakota PCS Alliance.

<sup>4</sup> We do not mean to excuse the lateness of those carriers who filed before July 26th -- and surely anyone who waited until 2002 to file was late -- but simply to separate those tardy filers who were lucky enough to secure FCC action from those who were not. Clearly, the unlucky filers made their own bad luck.

For the reasons discussed above, the FCC should refer to the Enforcement Bureau any Phase II waivers not decided in the July 26th Order. At a minimum, it should refer those requests which most egregiously fail to explain their tardiness.

Respectfully submitted,

NENA, APCO AND NASNA

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September 11, 2002

### **Certificate of Service**

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